



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON, D.C. 20370-5100

TJR
Docket No: 4056-00
1 December 2000

[REDACTED]

Dear [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of Title 10, United States Code, Section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 28 November 2000. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record, and applicable statutes, regulations, and policies.

After careful and conscientious consideration of the entire record, the Board found the evidence submitted was insufficient to establish the existence of probable material error or injustice.

The Board found you enlisted in the Marine Corps on 7 December 1979 at the age of 20. At this time you submitted a written report of your pre-service civil involvement in which you indicated that your only infraction with civil authorities was on 3 December 1979 for obstruction of traffic. However, on 10 December 1979, you submitted another written report which further detailed other incidents of pre-service civil involvement. This statement indicated the following involvement with civil authorities:

June 1977: assault

18 October 1975: assault, battery, attempt strong arm robbery

March 1974: burglary/home invasion

Your record contains a police report dated 31 December 1979 which details further involvement with civil authorities. This report notes your civil infraction of June 1977 as well as five other unreported civil infractions. The report notes the following civil infractions:

- 1 June 1977: assault
- 29 June 1977: battery*
- 30 June 1977: battery*
- 2 August 1977: assault*
- 24 March 1979: armed robbery*
- 15 June 1979: battery*

*denotes unreported civil infractions

On 14 January 1980 you were notified of pending administrative separation action by reason of misconduct due to fraudulent enlistment as evidenced by concealment of pre-service civil infractions. At this time you waived your right to consult with legal counsel and to submit a statement in rebuttal to the separation in lieu of a recommendation for a general or honorable discharge. Subsequently, the discharge authority directed your commanding officer to issue you an honorable discharge by reason of misconduct. On 18 January 1980 you were so discharged and assigned an RE-3F reenlistment code.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your youth and immaturity and your contention that a recruiter told you to conceal your pre-service civil infractions. However, the Board concluded these factors were not sufficient to warrant a change in your narrative reason for separation given your failure to reveal all of your pre-service civil involvement. Further, the Board noted that you there is no evidence in your record and you submitted none, to support your contention of recruiter misconduct. Given all the circumstances of your case, the Board concluded your discharge was proper as issued and no change is warranted. Accordingly, your application has been denied.

The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records.

Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director